

Appl. No. 10/598,832
Amdt. dated September 22, 2010
Reply to Office Action of March 30, 2010

Docket No. 73408.8001.US00

In the drawings:

Please replace previously submitted drawing sheets 1 and 4 with the attached replacement sheets.

REMARKS / ARGUMENTS

In the Office Action dated March 30, 2010, the Examiner rejected claims 1 – 26, 28 and 29 and objected to claims 1, 4, 9 – 13, 21, and 23 - 35. In response to the Office Action, the Examiner's claim rejections have been considered. Applicant respectfully traverses all rejections regarding all pending claims and earnestly solicits allowance of these claims.

1. Specification

In sections 5 and 6 of the Office Action the Examiner objected to the abstract and title. Applicant is amending the abstract and title accordingly and therefore requests withdrawal of the objections to the specification.

2. Claim Objections

In sections 7 and 8 of the Office Action the Examiner objected to claims 1, 4, 9 – 13, 21, and 23 – 25 for informalities. Applicant is amending the claims accordingly and therefore requests withdrawal of the objections.

3. Drawings

In section 9 of the Office Action the Examiner objected to the drawings. Applicant is submitting replacement sheets accordingly and requests withdrawal of the objection.

4. Claim Rejections - 35 U.S.C. §112

In sections 10 and 11 of the Office Action the Examiner rejected claims 4, 10, and 26 under 35 U.S.C. §112. Applicant is amending claims 4 and 10 accordingly and canceling claim 26. Applicant therefore requests withdrawal of the rejections.

5. Claim Rejections - 35 U.S.C. §101

In section 12 of the Office Action, the Examiner rejected claims 1 – 12, 26 and 28. Applicant is canceling claims 26 and 28 rendering the rejection of those claims moot. With respect to claims 1 – 12, Applicant traverses.

Under the Interim Guidance for Determining Subject Matter Eligibility for Process Claims in View of *Bilski v. Kappos*, factors weighing toward eligibility include recitation of a machine or transformation, the claim is more than a mere statement or concept. Specifically, claim 1 recites a particular machine – the claimed communication device and the claim recites a machine that implements the claimed steps – the claimed step of determining addresses. Further, claim describes a particular solution to a problem to be solved – encryption; claim 1 implements a concept in some tangible way – unencrypted data is read out encrypted; and the performance of steps is observable and verifiable – determining addresses, reading out symbols, etc. can be observed and is verifiable.

Accordingly, claim 1 is directed to statutory subject matter as are its dependent claims by virtue of their dependency.

6. Claim Rejections - 35 U.S.C. §102

In sections 13 – 14 of the Office Action the Examiner rejected claims 1, 2, 4, 5, 11, 13, 14, 16, 17, 24, 26, 28, and 29 under 35 U.S.C. §102 (b) as being anticipated by Bush. In response, Applicant is amending claims 1 and 13 to incorporate the limitations of claim 8 and 20 respectively. As the Examiner states that Bush fails to specifically disclose this limitation, claims 1 and 13 are now patentable over Bush. Accordingly, Applicant requests withdrawal of these rejections.

7. Claim Rejections - 35 U.S.C. §103

In sections 15 and 16 of the Office Action, the Examiner rejected claims 3, 6 – 9, 15 and 18 – 22 under 35 U.S.C. §103 (a) as being unpatentable over Bush in view of Kauffman.

Applicant submits that claim 1, incorporating claim 8, is patentable over the cited references whether considered independently or in combination by at least reciting:

A method for encrypting a digital data stream comprising the following steps:
 providing a communication device which has an interface for a digital storage medium, whose content may be read out and duplicated;
 providing a digital storage medium which is connected to the interface;
 storing a supply of symbols for encryption on the digital storage medium;
 providing a first random generator on the communication device which determines addresses on the digital storage medium;

reading out the symbols from the digital storage medium using the addresses on the digital storage medium; and
employing the read out symbols for encrypting or decrypting the digital data stream of the communication device.

In contrast to the claimed invention, Kauffman gets a seed number from a one-time pad to supply the seed to the pseudo-random number generator to generate a shift key. The claimed invention instead uses a random number generator to determine an address of the "supply of symbols" (one-time pad). In other words, Kauffman uses the pad to generate a pseudo-random number while the claimed invention uses a random number to access the "supply of symbols" (pad) and not to generate a seed. So, the functions are different and in fact the inverse of each other. Put another way, Kauffman starts with a one-time pad while the claimed invention ends with the one-time pad. Accordingly, the combination of Kauffman and Bush does not yield the claimed invention and claim 1 is patentable.

As claim 13 recites similar limitations to claim 1, claim 13 is also patentable. The remaining claims are patentable by virtue of their dependency and for reciting additional limitations.

8. New Claim

Applicant is adding new claim 30, which is a *Beauregard* claim corresponding to claim 1 and is therefore patentable for the reasons cited above.

CONCLUSION

Applicant has made an earnest and *bona fide* effort to clarify the issues before the Examiner and to place this case in condition for allowance. Reconsideration and allowance of all of claims is believed to be in order, and a timely Notice of Allowance to this effect is respectfully requested.

The Commissioner is hereby authorized to charge any additional required fees from Deposit Account No. 50-2586, Deposit Account Name PERKINS COIE LLP.

Should the Examiner have any questions concerning the foregoing, the Examiner is invited to telephone the undersigned attorney at +1.206.359.3535.

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Respectfully submitted,

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